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Pretrial Risk Assessment

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State Court Administrative Office



Introduction



Foundation

- Pretrial defendants are *unconvicted* and legally presumed innocent.
- “In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”
United States v Salerno, 481 US 739 (1987).

Purpose of Bail

- Court Appearance
- Public Safety

Factors Considered (MCR 6.106)

- Criminal history
- Previous FTA's
- Ties to the community
- Substance abuse
- Mental health
- Seriousness of the offense
- Ability to pay



Types of Pretrial Release



1. **Personal Recognizance Bonds:** Released without posting money up front – only required to pay upon FTA.
2. **Conditional Release:** Impose conditions a defendant must follow upon release from jail (e.g. no alcohol, drug testing, etc.)
3. **Cash/Surety bonds:** Must post a sum of money or surety *before* release from jail. Money is returned upon the conclusion of the case if defendant makes all required court appearances.



Judicial Challenges



Presumption of Innocence: Defendants are presumed innocent before conviction.

Subjective Process: Setting bail requires judges and magistrates to estimate risk based on incomplete data and prior conduct.

Consequences: Pretrial release decisions made with inadequate information can harm defendants and risk public safety.

Jail Populations: Defendants unable to afford bail/surety often remain incarcerated until case disposition. Approximately half of Michigan's jail population in 2016 were pretrial defendants.

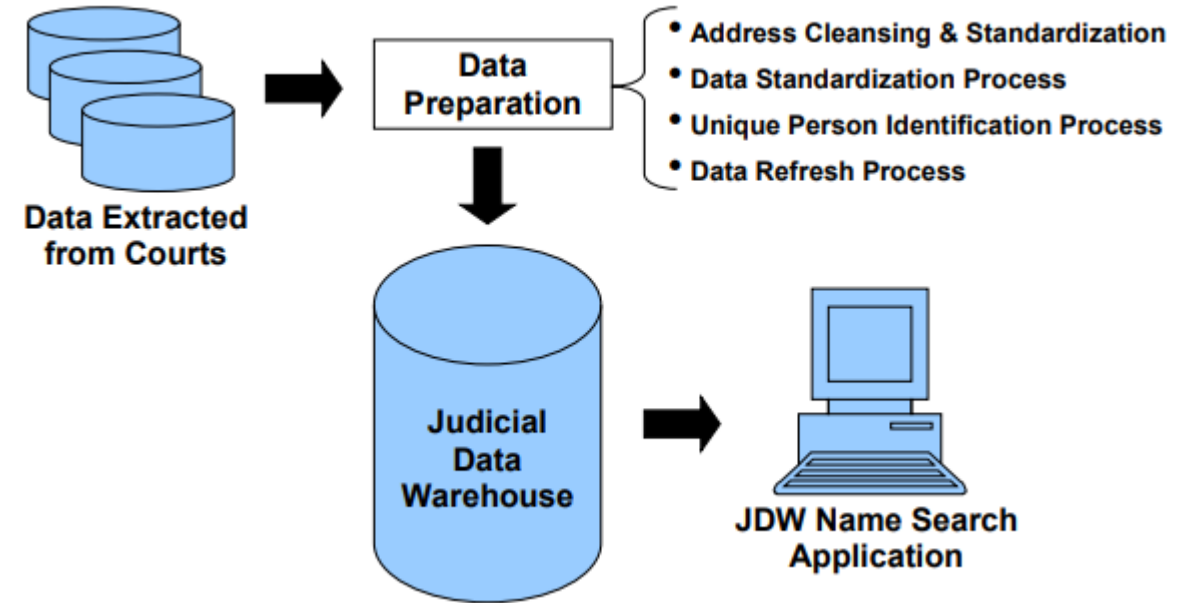
Case Impact: Limits the ability to prepare a defense, freely meet with attorneys and locate witnesses. Can increase pressure to plead guilty and jeopardizes employment, housing, and child custody arrangements.



Judicial Data Warehouse (JDW) Expansion



- 7 verified CMS vendors.
- More than 7 million case records with bond data.
- Data available to courts users in March, 2021.



Judge:		
Bond Ordered Date:	1/2/2020	Jail Release on Bond Date:
Bond Type:	P - PERSONAL RECOGNIZANCE	Failure to Appear Date:
Bond Amount:	5000.00	Bond Forfeiture Date:
Bond Posted Date:	1/2/2020	



Text Message Court Date Reminders



- **MiCOURT Reminders**

- Text message sent 2 days before court hearing.
- Reminders of payment due dates.
- Clerks automatically enroll defendants.

- **Pre-Post Study Design**

- 60th District Court (Muskegon Co.)
- 3A District Court (Branch Co.)
- 19th District Court (Dearborn)



REMINDER: Payment Due 1/11/2019
for Case 18E167303, 54B DistCt,
East Lansing Current Balance:
\$155.00

1/8/19 6:00 PM

REMINDER: PRETRIAL set 1/10/2019
at 9:36 AM for Case 18-1507, 54B
DistCt, East Lansing



Public Safety Assessment (PSA) Pilot Project



Public Safety Assessment

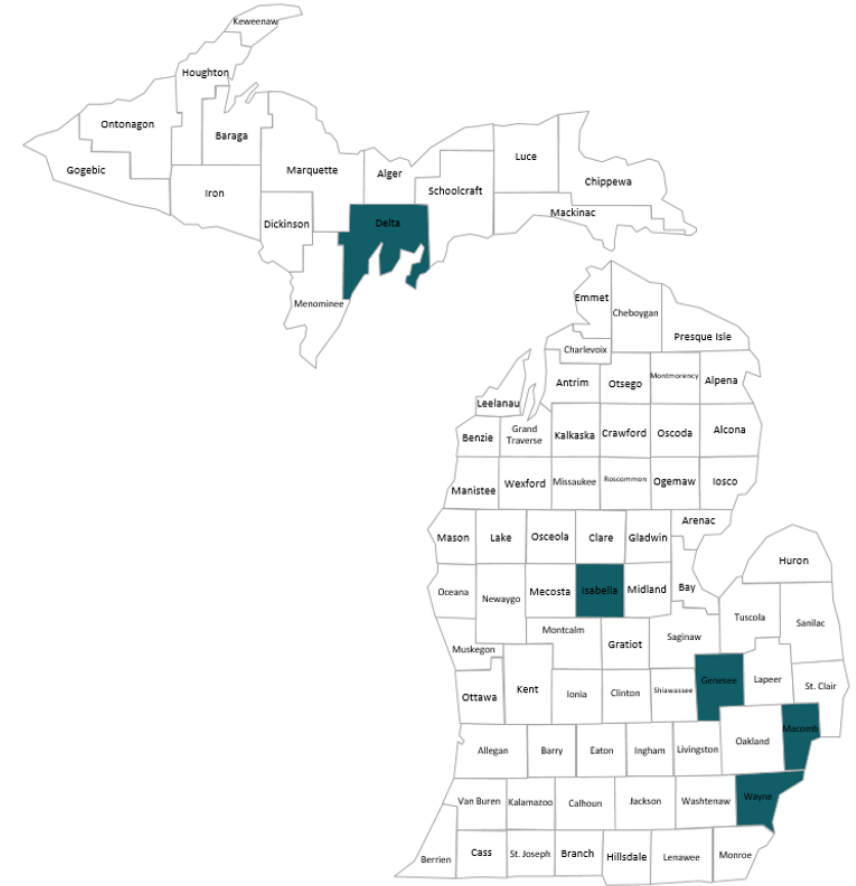
Assesses risk of failing to appear (FTA), new criminal activity (NCA), and new violent criminal history (NVCA).

Pilot Purpose

1. Is the PSA a valid instrument for predicting a defendant's risk of pretrial failure during the pendency of a criminal case?
2. Does the PSA appropriately classify levels of risk based on increasing pretrial failure rates?
3. Is the PSA a valid instrument for predicting a defendant's risk of pretrial failure *regardless of race or gender?*

Evaluator

- The Crime and Justice Institute (CJI)
 - Dr. Alexander Holsinger



Public Safety Assessment (PSA) Pilot Project



Timeline

Pilot Program:

02/2019 – 03/2020

Data Collection & Analysis:

04/2020 – 03/2021

Final Report:

03/31/2021

The PSA Pilot Program...	
<ul style="list-style-type: none">✓ DOES test whether the PSA can accurately predict the risk of failing to appear in court (FTA), new criminal activity (NCA), and new violent criminal activity (NVCA) of defendants released on bail.✓ DOES determine whether the PSA can accurately predict pretrial risk regardless of a defendant's race or gender.✓ DOES serve as an additional resource a judge may use when setting bail.✓ DOES allow judges to identify potential areas of concern, and respond with solutions to mitigate the risk.	<ul style="list-style-type: none">✗ DOES NOT restrict judicial discretion. Judges retain full authority to set bail according to their discretion.✗ DOES NOT utilize a nontransparent formula. The formula is publically available and summarized at the bottom of this report.✗ DOES NOT serve as a platform for a statewide rollout. The State Court Administrative Office (SCAO) is only testing the accuracy of the PSA to determine if it is a viable tool for assessing pretrial risk. SCAO will not make any decisions regarding its continued use until after the final evaluation report.✗ DOES NOT constitute an endorsement of pretrial risk assessment tools by SCAO.



Michigan Joint Task Force on Jail and Pretrial Incarceration



SCAO staffed the Task Force

Worked closely with the Pew Charitable Trusts.

Task Force issued 18 comprehensive recommendations

Span the entirety of the criminal justice system, including pretrial reforms.

Legislature enacted 20 bills based on the recommendations.

SCAO is now working to implement these important laws.



Judicial Trainings



Pretrial Release Trends: What it Means for District & Municipal Courts

Hon. Michelle Friedman Appel
Hon. Thomas P. Boyd
Ryan P. Gamby, J.D.

Pretrial Update



Magistrate Specialty Seminar
July 30, 2020

Ryan P. Gamby, J.D.
State Court Administrative Office



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BOND VIOLATIONS AND MOTIONS TO MODIFY BAIL

Hon. Michelle Friedman Appel
45th District Court

Hon. Craig E. Bunce
58th District Court

Ryan P. Gamby, J.D.
State Court Administrative Office



Pretrial Release

Ryan P. Gamby, J.D.
State Court Administrative Office

Arraignment & Bond



New Magistrate Seminar
March 19, 2020
Michigan Hall of Justice

Ryan P. Gamby, J.D.
State Court Administrative Office



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Michigan Joint Task Force on Jail and Pretrial Incarceration

Report and Recommendations
January 14, 2019



Contact Information



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